

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
June 5, 2017

DATE ISSUED
May 3, 2017

CASE TITLE – Urban Forest Coalition v. Michael Eng, Jonas Ionin, and Christine Silva
Planning Department (File No. 17025)

FACTS OF THE CASE

On April 5, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17025: Complaint filed by the SF Urban Forest Coalition against Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24(c), 67.25, and 67.34, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On April 25, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the Task Force for hearing.

Allen Grossman (Petitioner) provided a summary of the complaint and requested the Committee to find violations. Mr. Grossman stated that the Planning Department willfully delayed the distribution of the requested records in order to accommodate various parties. Mr. Grossman stated that he did eventually receive the requested 78 records. Christine Silva and Jonas Ionin, Planning Department (Respondent) provided a summary of the department's position and acknowledged that the response to the public records request was late. The Planning Department stated a portion of the delay was due to the need to consult with the City Attorney regarding redactions. A question and answer period followed. The parties were provided the opportunity for rebuttals. Mr. Ionin requested advice from the Committee regarding the Rule of Reason and the City Attorney's Good Government Guide.

Member Bruce Wolfe opined that if possible the department should have provided available documents prior to the deadline and provide additional documents as they became available on a rolling basis in order to comply with the provisions of the Sunshine Ordinance. In addition, Member Wolfe stated that

a city department is allowed to consult with the Office of the City Attorney for advice regarding redactions.

Member Wolfe, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with recommendation to find that the Task Force has jurisdiction and to find that Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, violated Administrative Code (Sunshine Ordinance), Section 67.21(a), by failing to respond to a public records request in a timely manner.

On May 3, 2017, the SOTF held a hearing to review the recommendation from Committee and to review the merits of the petition/complaint.

Allen Grossman (Petitioner) provided an overview of the complaint and requested that the Task Force find violations. Mr. Grossman stated that the production of public records were intentionally delayed and that it is the duty of the Custodian of records to redact records. Christine Silva and Jonas Ionin, Planning Department (Respondent) provided a summary of the department's position and acknowledged that the response to the public records request was late. Ms. Silva stated the request for personnel records was unusually and that Human Resources and the City Attorney were consulted regarding redaction of certain records. There were no speakers in support of the Petitioner. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, violated Administrative Code (Sunshine Ordinance), Section 67.25.

ORDER OF DETERMINATION

Chair Wolfe, seconded by Member Tesfai, moved to find that Michael Eng, Jonas Ionin, and Christine Silva, Planning Department, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner on a rolling basis as required.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Tesfai, Maass, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Cannata

A handwritten signature in blue ink, appearing to read 'BW', enclosed within a faint circular outline.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Allen Grossman, SF Urban Forest Coalition (Petitioner/Complainant)
Christine Silva, Planning Department (Respondent)
Jonas Ionin, Planning Department (Respondent)
Michael Eng, Planning Department (Respondent)